

REMARKS

This responds to the Office Action mailed on November 4, 2009.

Claims 1, 8, and 13 are amended; claims 3-5, 7, 9, 11, and 22-30 were previously canceled, without prejudice to or disclaimer by the Applicant; claims 16-21 are presently canceled, without prejudice to or disclaimer by the Applicant; as a result, claims 1-2, 6, 8, 10, and 12-15 are now pending in this application.

Example support for the amendments may be found throughout the original filed specification. By way of example only, the learned Examiner's attention is directed to the original filed specification page 10 lines 24-26 and page 16 lines 11-21.

The Rejection of Claims Under § 112

Claims 1-2, 6, and 16-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Applicant respectfully asserts that support existed in the specification as identified by the Applicant for the language as presented. Applicant is not required to cite verbatim the "exact" language of the specification. This has never been the case with respect to the law of claim interpretation. The legal question has always been would one of ordinary skill in the art believe after reading the specification that support existed for the claim language. A common sense reading of even the cited passages by the Examiner support the prior language as previously presented.

However, in an effort to expedite this matter, Applicant has reworded the offending passages to confirm with the exact language of the specification. There is no longer ambiguity, claim 1 recited verbatim the specification language. Applicant notes that the specification states that "the content or metadata of the reference has been tampered with or is associated with a known insecure reference." *Emphasis added*. This is alternative language ("or") and Applicant can decide which embodiment to claim, Applicant is not required to claim both embodiments if Applicant declines to do so. Thus, there is nothing ambiguous about the cited language and it conforms with the specification. Therefore, Applicant believes there is no reasonable rationale that can support this rejection any longer. Applicant has also corrected any other informality asserted by the Examiner with respect to the above rejected claims. Therefore, these rejections are now moot points.

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim was cancelled, without prejudice to or disclaimer by the Applicant, as a result this rejection is now moot.

The Rejection of Claims Under § 101

Claims 1-2, 6, 8, 10, and 12-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The pending claims recite the machine in the body of the claim, as such this rejection is now a moot point. Additionally, claims 16-21 have been cancelled, without prejudice to or disclaimer by the Applicant; as a result, these rejections are no longer sustainable.

Applicant notes that the present application incorporated by reference a number of patents, the entire disclosures of those references were properly incorporated into the present application by reference. Those incorporated disclosures very clearly identify a proxy as a proxy server (machine or computer). This is not software per se and comports with the client-server arrangement discussed by the applicant. As such, there is support for defining the proxy as a “proxy server,” which is not software per se and which is a machine and which is statutory.

Thus, this rejection should be withdrawn and the focus of examination should now be properly directed to the substance of the application and not informalities.

The Rejection of Claims Under § 103

Claims 1-2, 6, 8, 13, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Subramaniam et al. (U.S. Patent 6,081,900) in view of Barton et al. (U.S. 2003/0131259 A1) and further in view of Bazot et al. (U.S. 2004/0073629 A1). Obviousness requires that each and every element be taught or suggested in the proposed combination of references.

The proposed combination does not show or suggest replacing insecure reference with security warnings within the content that is vended to a client. This is now recited in one form or another in the above-noted amendments. As such, the rejections should be withdrawn and the pending claims allowed. Applicant respectfully requests an indication of the same.

Claims 10, 12, 14-15 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Subramaniam et al. in view of Barton et al., further in view of Bazot et al. and further in view of “Netscape Proxy Server Administrator’s Guide Version 3.5 for Unix,” (1997). In view of the amendments and remarks presented above with respect to the independent claims, this rejection should be withdrawn. Applicant respectfully requests an indication of the same from the learned Examiner.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402--0938
(513) 942-0224

Date 02-04-2010

By Joseph P. Mehrle

Joseph P. Mehrle
Reg. No. 45,535